



Commonwealth of Massachusetts State Ethics Commission

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SUFFOLK, ss.

COMMISSION ADJUDICATORY
DOCKET NO. 593

IN THE MATTER OF LUCIEN RAINVILLE

DISPOSITION AGREEMENT

The State Ethics Commission ("the Commission") and Lucien Rainville ("Rainville") enter into this Disposition Agreement ("Agreement") pursuant to Section 5 of the Commission's *Enforcement Procedures*. This Agreement constitutes a consented-to final order enforceable in the Superior Court, pursuant to G.L. c. 268B, §4(j).

On December 16, 1998, the Commission initiated, pursuant to G.L. c. 268B, §4(a), a preliminary inquiry into possible violations of the conflict of interest law, G.L. c. 268A, by Rainville. The Commission has concluded its inquiry and, on May 12, 1999, found reasonable cause to believe that Rainville violated G.L. c. 268A.

The Commission and Rainville now agree to the following findings of fact and conclusions of law:

1. Rainville was, during the time relevant, a part-time call firefighter in the town of Blackstone. As such, Rainville was a municipal employee as that term is defined in G.L. c. 268A, §1.

2. In addition, Rainville and his wife own Bert's Body Works, Inc. ("Bert's"), a Blackstone business that specializes in repairing and refurbishing ambulances. Rainville is primarily responsible for the day-to-day operations of Bert's.

3. In spring 1996, the town of Blackstone decided to refurbish its 1988 ambulance by remounting it on a new chassis and installing new equipment. Town Meeting approved a transfer of \$60,000 from the ambulance services account to pay for the work. The cost of a new ambulance would have been about \$100,000.

4. Blackstone Fire Chief Michael Sweeney was in charge of the town's ambulance service.^{1/} Chief Sweeney and the town administrator put together the bid package to request proposals on refurbishing the ambulance. The town issued the request for proposals in June or July 1996.

5. Rainville, on behalf of Bert's, intended to bid on the contract, but before doing so, Rainville asked Chief Sweeney whether Bert's could bid in light of Rainville's status as a part-time call firefighter. Chief Sweeney checked with the town administrator, who responded that he did not think that Rainville's fire department affiliation would constitute a conflict of interest under G.L. c. 268A. Thereafter, Rainville prepared and submitted Bert's bid.

6. On July 26, 1996, the town administrator opened the two bids that were received. Bert's bid was for \$58,086. The other bid was for \$58,469, did not include transportation costs to and from the bidder's location in Georgia, and indicated the wrong chassis model for the remount.

7. Because Bert's bid was \$400 lower and otherwise qualified, the town awarded the contract to Bert's. Rainville, on behalf of Bert's, requested written confirmation from the town, which Bert's received in October 1996.

8. At some point in August 1996, Chief Sweeney, who was supervising the refurbishing work on behalf of the town, realized that the bid specifications had not included Onspot chains for the vehicle,^{2/} even though Chief Sweeney had intended to include those items as part of the refurbishing work. Chief Sweeney discussed this matter with Rainville, who suggested that the town could save \$1,886 on the contract by waiving the performance bond, and then use that money to pay for the Onspot chains.^{3/}

9. The town administrator agreed to waive the performance bond requirement if Bert's submitted a bank check for \$58,086. Instead of a bank check, Bert's provided a regular company check for \$58,086, which Chief Sweeney accepted. Thereafter, Bert's purchased and installed the Onspot chains for a total cost of \$1,886. Thus, the total cost of the refurbishing work remained \$58,086.

10. In late November or early December 1996, when Bert's was about to deliver the refurbished ambulance, Rainville submitted an invoice for \$58,086 to the town. Rainville also signed the contract for the work. On both occasions, Rainville was acting on behalf of Bert's.

11. Bert's delivered the refurbished ambulance in mid-December 1996, and received payment from the town in the amount of \$58,086. The town received valid service for its money.

12. Section 17(c) of G.L. c. 268A prohibits a municipal employee from acting as agent for anyone other than the municipality in connection with a particular matter in which the municipality is a party or has a direct and substantial interest.

13. The contract to refurbish and remount the ambulance was a particular matter.

14. The town was a party to that contract and had a direct and substantial interest in the particular matter.

15. Rainville represented Bert's in all its dealings with the town in connection with the contract particular matter. Specifically, Rainville acted as Bert's agent in the following situations: submitting the bid for the work; requesting written confirmation of the contract award; negotiating certain changes (regarding the waiving of the performance bond to pay for the Onspot chains); issuing an invoice to the town; and signing the contract.

16. Thus, Rainville acted as agent for someone other than the town in connection with a particular matter in which the town was a party and had a direct and substantial interest. By doing so, Rainville violated §17(c).^{4/}

17. Rainville cooperated in this investigation.

In view of the foregoing violations of G.L. c. 268A by Rainville, the Commission has determined that the public interest would be served by the disposition of this matter without further enforcement proceedings, on the basis of the following terms and conditions agreed to by Rainville:

- (1) that Rainville pay to the Commission the sum of five hundred dollars (\$500) as a civil penalty for violating G.L. c. 268A, §17(c); and
- (2) that Rainville waive all rights to contest the findings of fact, conclusions of law and terms and conditions contained in this Agreement in this or any other related administrative or judicial proceedings to which the Commission is or may be a party.

DATE: September 21, 1999

1/Sweeney and Rainville are related by marriage, but that fact is not relevant to this disposition agreement.

2/Onspot chains are mounted to the underside of the vehicle and install on tires automatically at the push of a button, for better traction in snow.

3/In fact, Bert's had provided the town with an alternative bid of \$56,200 in its original proposal, indicating that the town could save \$1,886 on the contract by waiving the performance bond requirement. Bert's usually provided this option in addition to its standard bid.

4/In addition, Rainville's conduct raises issues under §20 of the conflict of interest law, which prohibits a municipal employee from having a financial interest, direct or indirect, in a contract made by a municipal agency of his own municipality, in which the municipality is an interested party and of which financial interest the employee has knowledge or reason to know. In this case, Rainville, as a co-owner of Bert's, had a financial interest in the contract to refurbish the ambulance, the town was a party to that contract, and Rainville knew of his own financial interest. Thus, it appears that Rainville violated §20. We find it somewhat mitigating, although not a complete defense, that Rainville raised the conflict of interest issue before bidding on the contract and received word from the town administrator that it was not a problem for him to bid. Moreover, this fact mitigates Rainville's §17(c) violations somewhat.